

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 318

Introduced by ~~Senator~~ *Senators Hill and Steinberg*

February 19, 2013

An act to amend Section 22750 of, and to add and repeal Article 3.6 (commencing with Section 22365) of Chapter 2 of Division 9 of, the Financial Code, relating to consumer loans.

LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, Hill. Consumer loans: Pilot Program for Increased Access to Responsible Small Dollar Loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes and authorizes a licensee to contract for and receive specified alternative charges and administrative and delinquency fees.

Existing law establishes, until January 1, 2015, the Pilot Program for Affordable Credit-Building Opportunities for the purpose of increasing the availability of credit-building opportunities to underbanked individuals seeking low-dollar-value loans. Under the program, licensees must file an application with, and pay a fee to, the Commissioner of Corporations to participate in the program. Existing law authorizes a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$250 and less than \$2,500, subject to certain requirements. Existing law also

authorizes licensees in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts at the finder's location, subject to a written agreement meeting specified requirements.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, certain responsibilities of the Department of Corporations and the Commissioner of Corporations will be transferred to the Department of Business Oversight and the Deputy Commissioner of Business Oversight for the Division of Corporations.

This bill would, until January 1, 2018, establish the Pilot Program for Increased Access to Responsible Small Dollar Loans for the purpose of ~~allow~~ *allowing* greater access for responsible installment loans in principal amounts of at least \$300 and less than \$2,500. The bill would require licensees and other entities to file an application and pay a specified fee to the Deputy Commissioner of Business Oversight for the Division of Corporations to participate in the program. The bill would authorize a licensee approved by the deputy commissioner to participate in the program to impose specified alternative interest rates and charges, including an underwriting fee, an administrative fee, and delinquency fees, on loans of at least \$300 and less than \$2,500, subject to certain requirements.

This bill would also authorize a licensee in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements. The bill would establish the services a finder is authorized and required to perform, and would require a finder to comply with the laws applicable to the licensee relative to information security. The bill would require a licensee to notify the deputy commissioner within 15 days of entering into a contract with a finder, would require a licensee to pay an annual finder registration fee to the deputy commissioner, and would require a licensee to submit an annual report to the deputy commissioner on the licensee's relationship and business arrangements with a finder, as specified. The bill would authorize the deputy commissioner to examine the operations of a licensee and a finder to ensure that the activities of the licensee and the finder are in compliance with these provisions. The bill would make a licensee that uses a finder responsible for a violation of these

provisions by a finder or a finder's employee, and would authorize the deputy commissioner to impose administrative penalties against a finder for a violation of these provisions. The bill would authorize the deputy commissioner, upon a violation of these provisions, to disqualify a finder from performing services, bar a finder from performing services at one or more specific locations of the finder, terminate a written agreement between a licensee and a finder, and, under specified circumstances, prohibit the use of the finder by all licensees. The bill would authorize a licensee participating in the program to appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the deputy commissioner.

This bill would require the deputy commissioner to examine the performance of each licensee in the program at least once every 24 months, and would require the costs of examination to be paid by the licensee to the deputy commissioner, as specified. The bill would also require the deputy commissioner to conduct a random sample survey of borrowers under the program. The bill would require the deputy commissioner to post a report on the deputy commissioner's Internet Web site by January 1, 2016, and once again by January 1, 2017, summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans, as specified.

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

This bill would also make a clarifying change to the California Finance Lenders Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 3.6 (commencing with Section 22365) is
- 2 added to Chapter 2 of Division 9 of the Financial Code, to read:

1 Article 3.6. Pilot Program for Increased Access to Responsible
2 Small Dollar Loans
3

4 22365. (a) The Pilot Program for Increased Access to
5 Responsible Small Dollar Loans is hereby established.

6 (b) The Legislature finds and declares that consumer demand
7 for responsible installment loans in principal amounts of at least
8 three hundred dollars (\$300) but less than two thousand five
9 hundred dollars (\$2,500) exceeds the supply of these loans. In
10 2010, the Legislature enacted the Pilot Program for Affordable
11 Credit-Building Opportunities, as a first step toward addressing
12 this gap. California's experience to date with that pilot program
13 has identified several improvements that could be made, which
14 would allow more Californians to access responsible installment
15 loans of at least three hundred dollars (\$300) but less than two
16 thousand five hundred dollars (\$2,500). This new Pilot Program
17 for Increased Access to Responsible Small Dollar Loans is intended
18 to implement those improvements.

19 (c) For purposes of this article:

20 (1) "Deputy commissioner" means the Deputy Commissioner
21 of Business Oversight for the Division of Corporations.

22 (2) "Program" means the Pilot Program for Increased Access
23 to Responsible Small Dollar Loans.

24 22366. (a) Any entity licensed under this chapter that wishes
25 to participate in the program, that is in good standing with the
26 Deputy Commissioner of Business Oversight for the Division of
27 Corporations and has no outstanding enforcement actions or
28 deficiencies at the time of its application, shall file an application
29 with the deputy commissioner, in a manner prescribed by the
30 deputy commissioner, and shall pay a fee to the deputy
31 commissioner, in an amount calculated by the deputy commissioner
32 to cover its costs to administer this article.

33 (b) Any entity wishing to participate in the program that is not
34 licensed pursuant to this chapter may submit a combined
35 application to the deputy commissioner, in a manner prescribed
36 by the deputy commissioner, for licensure under this chapter and
37 admission to the program and shall pay a fee to the deputy
38 commissioner in an amount equal to the fees that would have been
39 imposed if the person had submitted separate applications. To be
40 eligible to apply in this manner, an entity must be free of

1 outstanding enforcement or other disciplinary actions taken against
2 it by any of California’s financial regulators or by a financial
3 regulator of another state.

4 22367. Every entity approved by the deputy commissioner to
5 participate in the program shall file with the deputy commissioner
6 on or before March 15 an annual report consistent with Section
7 22159, separate from any other annual report the licensee may be
8 required to file.

9 22368. Except as otherwise provided, nothing in this article
10 shall exempt any licensee from any of the provisions of this
11 division or Section 1632 of the Civil Code.

12 22369. No licensee may offer or make a loan, nor impose any
13 charges or fees pursuant to Section 22370, nor use a finder pursuant
14 to Section 22371, without prior approval from the deputy
15 commissioner to participate in the program.

16 22370. (a) Any loan made pursuant to this section shall comply
17 with the following requirements:

18 (1) Interest on the loan shall accrue on a simple-interest basis,
19 through the application of a daily periodic rate to the actual unpaid
20 principal balance each day.

21 (2) The licensee shall disclose the following to the consumer
22 in writing, in a type face no smaller than ~~10-point~~ 12-point type,
23 at the time of application:

24 (A) The amount borrowed; the total dollar cost of the loan to
25 the consumer if the loan is paid back on time, including the sum
26 of the origination fee, underwriting fee, principal amount borrowed,
27 and interest payments; the corresponding annual percentage rate,
28 calculated in accordance with Federal Reserve Board Regulation
29 Z (12 C.F.R. 226); the periodic payment amount; the delinquency
30 fee schedule; and the following statement: “Repaying your loan
31 early will lower your borrowing costs by reducing the amount of
32 interest you will pay. This loan has no prepayment penalty.”

33 (B) A statement that the consumer has the right to rescind the
34 loan by notifying the licensee of the consumer’s intent to rescind
35 the loan and returning the principal advanced by the end of the
36 business day following the date the loan is consummated.

37 (3) *A licensee may provide the borrower with the disclosures*
38 *required by paragraph (2) in a mobile phone application, on which*
39 *the size of the type face of the disclosure can be manually modified*
40 *by a prospective borrower, if the prospective borrower is given*

1 *the option to print the disclosure in a type face of at least 12-point*
2 *size or is provided by the licensee with a hard copy of the*
3 *disclosure in a type face of at least 12-point size before the loan*
4 *is consummated.*

5 ~~(3)~~

6 (4) The loan shall have a minimum principal amount upon
7 origination of three hundred dollars (\$300) and a term of not less
8 than the following:

9 (A) Ninety days for loans whose principal balance upon
10 origination is less than five hundred dollars (\$500).

11 (B) One hundred twenty days for loans whose principal balance
12 upon origination is at least five hundred dollars (\$500), but is less
13 than one thousand five hundred dollars (\$1,500).

14 (C) One hundred eighty days for loans whose principal balance
15 upon origination is at least one thousand five hundred dollars
16 (\$1,500).

17 (b) As an alternative to the charges authorized by Section 22303
18 or 22304, a licensee approved by the deputy commissioner to
19 participate in the program may contract for and receive charges
20 for a loan made pursuant to this section at an annual simple interest
21 rate not to exceed the following:

22 (1) 32.75 percent plus the United States prime lending rate, as
23 of the date of loan origination, on that portion of the unpaid
24 principal balance of the loan up to and including, but not in excess
25 of, one thousand dollars (\$1,000). The interest rate calculated as
26 of the date of loan origination shall be fixed for the life of the loan.

27 (2) 28.75 percent plus the United States prime lending rate, as
28 of the date of loan origination, on that portion of the unpaid
29 principal balance of the loan in excess of one thousand dollars
30 (\$1,000), but less than two thousand five hundred dollars (\$2,500).
31 The interest rate calculated as of the date of loan origination shall
32 be fixed for the life of the loan.

33 (c) As to any loan made under this section, a licensee approved
34 by the deputy commissioner to participate in the program may
35 contract for and receive an underwriting fee, which shall be fully
36 earned immediately upon making the loan, in an amount not to
37 exceed thirty dollars (\$30), and an administrative fee, which shall
38 be fully earned immediately upon making the loan, in an amount
39 not to exceed 6 percent of the principal amount, exclusive of the
40 underwriting fee and administrative fee, or seventy-five dollars

1 (\$75), whichever is less. A licensee shall not charge the same
2 borrower an underwriting fee or an administrative fee more than
3 once in any four-month period. An underwriting fee or an
4 administrative fee shall not be contracted for or received in
5 connection with the refinancing of a loan unless at least eight
6 months have elapsed since the receipt of a previous underwriting
7 fee or administrative fee paid by the borrower. Only one
8 underwriting fee and one administrative fee may be contracted for
9 or received until the loan has been repaid in full. Section 22305
10 shall not apply to any loan made under this section.

11 (d) Notwithstanding subdivision (a) of Section 22320.5, a
12 licensee approved by the deputy commissioner to participate in
13 the program may require reimbursement from a borrower for the
14 actual insufficient funds fees incurred by that licensee due to
15 actions of the borrower, and may contract for and receive a
16 delinquency fee that is one of the following amounts:

17 (1) For a period ~~in default~~ *of delinquency* of not less than four
18 days, an amount not in excess of sixteen dollars (\$16).

19 (2) For a period ~~in default~~ *of delinquency* of not less than 14
20 days, an amount not in excess of twenty-two dollars (\$22).

21 (e) If a licensee opts to impose a delinquency fee, it shall use
22 the delinquency fee schedule described in subdivision (d), subject
23 to all of the following:

24 (1) No more than one delinquency fee may be imposed per
25 delinquent payment.

26 (2) No more than two delinquency fees may be imposed during
27 any period of 30 consecutive days.

28 (3) No delinquency fee may be imposed on a borrower who is
29 180 days or more past due if that fee would result in the sum of
30 the borrower's remaining unpaid principal balance, accrued interest,
31 and delinquency fees exceeding 180 percent of the original
32 principal amount of the borrower's loan.

33 (4) The licensee or any of its wholly owned subsidiaries shall
34 attempt to collect a delinquent payment for a period of at least 30
35 days following the start of the delinquency before selling or
36 assigning that unpaid debt to an independent party for collection.

37 (f) The following shall apply to a loan made by a licensee
38 pursuant to this section:

39 (1) Prior to disbursement of loan proceeds, the licensee shall
40 either (A) offer a credit education program or seminar to the

1 borrower that has been previously reviewed and approved by the
2 deputy commissioner for use in complying with this section; or
3 (B) invite the borrower to a credit education program or seminar
4 offered by an independent third party that has been previously
5 reviewed and approved by the deputy commissioner for use in
6 complying with this section. The borrower shall not be required
7 to participate in either of these education programs or seminars.

8 (2) The licensee shall report each borrower's payment
9 performance to at least one consumer reporting agency that
10 compiles and maintains files on consumers on a nationwide basis,
11 upon acceptance as a data furnisher by that consumer reporting
12 agency. For purposes of this section, a consumer reporting agency
13 that compiles and maintains files on consumers on a nationwide
14 basis is one that meets the definition in Section 603(p) of the
15 *federal* Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any
16 licensee that is accepted as a data furnisher after admittance into
17 the program must report all borrower payment performance since
18 its inception of lending under the program, as soon as practicable
19 after its acceptance into the program, but in no event more than
20 six months after its acceptance into the program.

21 (A) The deputy commissioner may approve a licensee for the
22 program, before that licensee has been accepted as a data furnisher
23 by a consumer reporting agency, if the deputy commissioner has
24 a reasonable expectation, based on information supplied by the
25 licensee, of both of the following:

26 (i) The licensee will be accepted as a data furnisher, once it
27 achieves a lending volume required of data furnishers of its type
28 by a consumer reporting agency.

29 (ii) That lending volume will be achieved within the first six
30 months of the licensee commencing lending.

31 (B) Notwithstanding subparagraph (A), the deputy commissioner
32 shall withdraw approval for pilot program participation from any
33 licensee that fails to become accepted as a data furnisher by a
34 consumer reporting agency within six months of commencing
35 lending under the pilot program.

36 (3) *The licensee shall provide each borrower with the name of*
37 *the consumer reporting agency or agencies to which it will report*
38 *the borrower's payment history. A licensee that is accepted as a*
39 *data furnisher after admittance into the program shall notify its*
40 *borrowers, as soon as practicable following acceptance as a data*

1 *furnisher, regarding the name of the consumer reporting agency*
2 *or agencies to which it will report that borrower's payment history.*

3 ~~(3)~~

4 (4) (A) The licensee shall underwrite each loan to determine a
5 borrower's ability and willingness to repay the loan pursuant to
6 the loan terms, and shall not make a loan if it determines, through
7 its underwriting, that the borrower's total monthly debt service
8 payments, at the time of origination, including the loan for which
9 the borrower is being considered, and across all outstanding forms
10 of credit that can be independently verified by the licensee, exceed
11 50 percent of the borrower's gross monthly income.

12 (B) (i) The licensee shall seek information and documentation
13 pertaining to all of a borrower's outstanding debt obligations during
14 the loan application and underwriting process, including loans that
15 are self-reported by the borrower but not available through
16 independent verification. The licensee shall verify that information
17 using a credit report from at least one consumer reporting agency
18 that compiles and maintains files on consumers on a nationwide
19 basis or through other available electronic debt verification services
20 that provide reliable evidence of a borrower's outstanding debt
21 obligations.

22 (ii) Notwithstanding the verification requirement in
23 subparagraph (A), the licensee shall request from the borrower
24 and include all information obtained from the borrower regarding
25 outstanding deferred deposit transactions in the calculation of the
26 borrower's outstanding debt obligations.

27 (iii) The licensee shall not be required to consider, for purposes
28 of debt-to-income ratio evaluation, loans from friends or family.

29 (C) The licensee shall also verify the borrower's income that
30 the licensee relies on to determine the borrower's debt-to-income
31 ratio using information from either of the following:

32 (i) Electronic means or services that provide reliable evidence
33 of the borrower's actual income.

34 (ii) Internal Revenue Service Form W-2, tax returns, payroll
35 receipts, bank statements, or other third-party documents that
36 provide reasonably reliable evidence of the borrower's actual
37 income.

38 ~~(4)~~

39 (5) The licensee shall notify each borrower, at least two days
40 prior to each payment due date, informing the borrower of the

1 amount due, and the payment due date. Notification may be
2 provided by any means acceptable to the borrower.

3 (g) (1) Notwithstanding Sections 22311 to 22315, inclusive,
4 no person, in connection with, or incidental to, the making of any
5 loan made pursuant to this article, may offer, sell, or require the
6 borrower to contract for “credit insurance” as defined in paragraph
7 (1) of subdivision (a) of Section 22314 or insurance on tangible
8 personal or real property of the type specified in Section 22313.

9 (2) Notwithstanding Sections 22311 to 22315, inclusive, no
10 licensee, finder, or any other person that participates in the
11 origination of a loan under this article shall refer a borrower to any
12 other person for the purchase of “credit insurance” as defined in
13 paragraph (1) of subdivision (a) of Section 22314 or insurance on
14 tangible personal or real property of the type specified in Section
15 22313.

16 (h) (1) No licensee shall require, as a condition of providing
17 the loan, that the borrower waive any right, penalty, remedy, forum,
18 or procedure provided for in any law applicable to the loan,
19 including the right to file and pursue a civil action or file a
20 complaint with or otherwise communicate with the deputy
21 commissioner or any court or other public entity, or that the
22 borrower agree to resolve disputes in a jurisdiction outside of
23 California or to the application of laws other than those of
24 California, as provided by law. Any ~~such~~ waiver by a borrower
25 must be knowing, voluntary, and in writing, and expressly not
26 made a condition of doing business with the licensee. Any ~~such~~
27 waiver that is required as a condition of doing business with the
28 licensee shall be presumed involuntary, unconscionable, against
29 public policy, and unenforceable. The licensee has the burden of
30 proving that a waiver of any rights, penalties, forums, or procedures
31 was knowing, voluntary, and not made a condition of the contract
32 with the borrower.

33 (2) No licensee shall refuse to do business with or discriminate
34 against a borrower or applicant on the basis that the borrower or
35 applicant refuses to waive any right, penalty, remedy, forum, or
36 procedure, including the right to file and pursue a civil action or
37 complaint with, or otherwise notify, the deputy commissioner or
38 any court or other public entity. The exercise of a person’s right
39 to refuse to waive any right, penalty, remedy, forum, or procedure,

1 including a rejection of a contract requiring a waiver, shall not
2 affect any otherwise legal terms of a contract or an agreement.

3 (3) This subdivision shall not apply to any agreement to waive
4 any right, penalty, remedy, forum, or procedure, including any
5 agreement to arbitrate a claim or dispute, after a claim or dispute
6 has arisen. Nothing in this subdivision shall affect the enforceability
7 or validity of any other provision of the contract.

8 (i) This section shall not apply to any loan of a bona fide
9 principal amount of two thousand five hundred dollars (\$2,500)
10 or more as determined in accordance with Section 22251. For
11 purposes of this subdivision, “bona fide principal amount” shall
12 be determined in accordance with Section 22251.

13 22371. (a) A licensee who is approved by the deputy
14 commissioner to participate in the program may use the services
15 of one or more finders as provided in this article.

16 (b) For purposes of this article, a “finder” means an entity that,
17 at the finder’s physical location for business, brings a licensee and
18 a prospective borrower together for the purpose of negotiating a
19 loan contract.

20 (c) An entity, whose sole means of bringing a licensee and a
21 prospective borrower together at that entity’s physical location for
22 business is via an electronic access point through which a
23 prospective borrower may directly access the Internet Web site of
24 a licensee is not a “finder” for purposes of this article.

25 22372. (a) A finder may perform one or more of the following
26 services for a licensee at the finder’s physical location for business:

27 (1) Distributing, circulating, using, or publishing preprinted
28 brochures, flyers, factsheets, or other written materials relating to
29 loans that the licensee may make or negotiate and that have been
30 reviewed and approved in writing by the licensee prior to their
31 being distributed, circulated, or published.

32 (2) Providing written factual information about loan terms,
33 conditions, or qualification requirements to a prospective borrower
34 that has been either prepared by the licensee or reviewed and
35 approved in writing by the licensee. A finder may discuss that
36 information with a prospective borrower in general terms, but may
37 not provide counseling or advice to a prospective borrower.

38 (3) Notifying a prospective borrower of the information needed
39 in order to complete a loan application without providing
40 counseling or advice to a prospective borrower.

1 (4) Entering information provided by the prospective borrower
2 on a preprinted or electronic application form or onto a
3 preformatted computer database without providing counseling or
4 advice to a prospective borrower.

5 (5) Assembling credit applications and other materials obtained
6 in the course of a credit application transaction for submission to
7 the licensee.

8 (6) Contacting the licensee to determine the status of a loan
9 application.

10 (7) Communicating a response that is returned by the licensee's
11 automated underwriting system to a borrower or a prospective
12 borrower.

13 (8) Obtaining a borrower's signature on documents prepared
14 by the licensee and delivering final copies of the documents to the
15 borrower.

16 (b) A finder shall not engage in any of the following activities:

17 (1) Providing counseling or advice to a borrower or prospective
18 borrower.

19 (2) Providing loan-related marketing material that has not
20 previously been approved by the licensee to a borrower or a
21 prospective borrower.

22 (3) Interpreting or explaining the relevance, significance, or
23 effect of any of the marketing materials or loan documents the
24 finder provides to a borrower or prospective borrower.

25 (c) Any person who performs one or more of the following
26 activities is a broker within the meaning of Section 22004 rather
27 than a finder within the meaning of this section:

28 (1) Negotiating the price, length, or any other loan term between
29 a licensee and a prospective borrower.

30 (2) Advising either a prospective borrower or a licensee as to
31 any loan term.

32 (3) Offering information pertaining to a single prospective
33 borrower to more than one licensee, except that, if a licensee has
34 declined to offer a loan to a prospective borrower and has so
35 notified that prospective borrower in writing, the person may then
36 offer information pertaining to a single prospective borrower to
37 another licensee with which it has a finder's agreement.

38 (4) Personally contacting or providing services to a borrower
39 or prospective borrower at any place other than the finder's
40 physical location for business.

1 (d) A finder shall comply with all laws applicable to the licensee
2 that impose requirements upon the licensee for safeguards for
3 information security.

4 22373. (a) At the time the finder receives or processes an
5 application for a program loan, the finder shall provide the
6 following statement to the applicant, on behalf of the licensee, in
7 no smaller than 10-point type, and shall ask the applicant to
8 acknowledge receipt of the statement in writing:

9 “Your loan application has been referred to us by [Name of
10 Finder]. We may pay a fee to [Name of Finder] for the successful
11 referral of your loan application. IF YOU ARE APPROVED FOR
12 THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR
13 LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP
14 WITH [NAME OF LICENSEE]. If you wish to report a complaint
15 about [Name of Finder] or [Name of Licensee] regarding this loan
16 transaction, you may contact the Department of Business Oversight,
17 Division of Corporations at 1-866-ASK-CORP (1-866-275-2677),
18 or file your complaint online at www.corp.ca.gov.”

19 (b) If the loan is consummated, the licensee shall provide the
20 borrower a written copy of the disclosure notice within two weeks
21 following the date of the loan consummation. A licensee may
22 include the disclosure within its loan contract, or may provide it
23 as a separate document to the borrower, via any means acceptable
24 to the borrower.

25 22374. (a) A finder may be compensated by the licensee
26 pursuant to the written agreement between the licensee and the
27 finder, as described in Section 22376.

28 (b) The compensation of a finder by a licensee shall be subject
29 to all of the following requirements:

30 (1) No fee shall be paid to a finder in connection with a loan
31 application until and unless that loan is consummated.

32 (2) No fee shall be paid to a finder based upon the principal
33 amount of the loan.

34 (3) No fee paid to a finder shall exceed the following amounts:

35 (A) Forty-five dollars (\$45) per loan for the first 40 loans
36 originated each month at the finder’s location.

37 (B) Forty dollars (\$40) per loan for any subsequent loans
38 originated during that month at the finder’s location.

39 (4) The finder’s location for services under this article and other
40 information required by Section 22375 has been reported to the

1 deputy commissioner and the finder has not been barred from
2 providing services at that location by the deputy commissioner.

3 (c) No licensee shall, directly or indirectly, pass on to a borrower
4 any fee, or any portion of any fee, that the licensee pays to a finder
5 in connection with that borrower's loan or loan application.

6 22375. A licensee that utilizes the service of a finder shall do
7 all of the following:

8 (a) Notify the deputy commissioner within 15 days of entering
9 into a contract with a finder, on a form acceptable to the deputy
10 commissioner, regarding all of the following:

11 (1) The name and business address of the finder and all locations
12 at which the finder will perform services under this article.

13 (2) The name and contact information for an employee of the
14 finder who is knowledgeable about, and has the authority to
15 execute, the contract governing the business relationship between
16 the finder and the licensee.

17 (3) The name and contact information for one or more
18 employees of the finder who are responsible for that finder's
19 finding activities on behalf of the licensee.

20 (4) A list of the activities the finder shall perform on behalf of
21 the licensee.

22 (5) Any other information requested by the deputy
23 commissioner.

24 (b) Pay an annual finder registration fee to the deputy
25 commissioner in an amount to be established by the deputy
26 commissioner by regulation for each finder utilized by the licensee.

27 (c) Submit an annual report to the deputy commissioner
28 including any information pertaining to each finder and the
29 licensee's relationship and business arrangements with each finder
30 as the deputy commissioner may by regulation require.

31 22376. All arrangements between a licensee and a finder shall
32 be set forth in a written agreement between the parties. The
33 agreement shall contain a provision establishing that the finder
34 agrees to comply with all regulations that are established by the
35 deputy commissioner pursuant to this article regarding the activities
36 of finders and that the deputy commissioner shall have access to
37 all of the finder's books and records that pertain to the finder's
38 operations under the agreement with the licensee.

39 22377. (a) The deputy commissioner may examine the
40 operations of each licensee and each finder to ensure that the

1 activities of the licensee and the finder are in compliance with this
2 article. The costs of the deputy commissioner's examination of
3 each finder shall be attributed to the deputy commissioner's
4 examination of the licensee. Any violation of this article by a finder
5 or a finder's employee shall be attributed to the finance lender
6 with whom it has entered into an agreement for purposes of
7 determining the licensee's compliance with this division.

8 (b) Upon a determination that a finder has acted in violation of
9 this article, or any implementing regulation, the deputy
10 commissioner shall have the authority to disqualify a finder from
11 performing services under this article, bar a finder from performing
12 services at one or more specific locations of that finder, terminate
13 a written agreement between a finder and a licensee, and, if the
14 deputy commissioner deems that action in the public interest,
15 prohibit the use of that finder by all licensees accepted to
16 participate in the pilot program.

17 (c) In addition to any other penalty allowed by law, the deputy
18 commissioner may impose an administrative penalty up to two
19 thousand five hundred dollars (\$2,500) for violations of this article
20 committed by a finder.

21 22378. Notwithstanding the requirements of Section 22102
22 and its implementing regulations, a licensee accepted to participate
23 in the program may appoint one or more branch managers with
24 responsibility for multiple branch locations, subject to approval
25 by the deputy commissioner, and a finding by the deputy
26 commissioner that the centralized nature of underwriting and other
27 key business activities performed by the licensee does not require
28 a unique manager for each branch location, to ensure the protection
29 of consumers who seek out loans from the licensee. The deputy
30 commissioner may revoke this approval at any time, upon a finding
31 that a unique branch manager at each branch location is required
32 for consumer protection.

33 22379. Notwithstanding any other law, the deputy
34 commissioner shall examine each licensee that is accepted into
35 the program at least once every 24 months. The cost of each
36 examination of a licensee shall be paid to the deputy commissioner
37 by the licensee examined, and the deputy commissioner may
38 maintain an action for the recovery of the cost in any court of
39 competent jurisdiction. In determining the cost of the examination,
40 the deputy commissioner may use the estimated average hourly

1 cost for all persons performing examinations of licensees or other
2 persons subject to this division for the fiscal year.

3 22380. (a) On or before January 1, 2016, and again, on or
4 before January 1, 2017, the deputy commissioner shall post a report
5 on his or her Internet Web site summarizing utilization of the Pilot
6 Program for Increased Access to Responsible Small Dollar Loans.

7 (b) The information disclosed to the deputy commissioner for
8 the deputy commissioner's use in preparing the report described
9 in this section is exempted from any requirement of public
10 disclosure by paragraph (2) of subdivision (d) of Section 6254 of
11 the Government Code.

12 (c) If there is more than one licensee approved to participate in
13 the program under this article, the report required pursuant to
14 subdivision (a) shall state information in aggregate so as not to
15 identify data by specific licensee.

16 (d) The report required pursuant to this section shall specify the
17 time period to which the report corresponds, and shall include, but
18 not be limited to, the following for that time period:

19 (1) The number of entities that applied to participate in the
20 program.

21 (2) The number of entities accepted to participate in the program.

22 (3) The reason or reasons for rejecting applications for
23 participation, if applicable. This information shall be provided in
24 a manner that does not identify the entity or entities rejected.

25 (4) The number of program loan applications received by lenders
26 participating in the program, the number of loans made pursuant
27 to the program, the total amount loaned, and the distribution of
28 interest rates and principal amounts upon origination among those
29 loans.

30 (5) The number of borrowers who obtained more than one
31 program loan.

32 (6) Of the number of borrowers who obtained more than one
33 program loan, the percentage of those borrowers whose credit
34 scores increased between successive loans, based on information
35 from at least one major credit bureau, and the average size of the
36 increase.

37 (7) The income distribution of borrowers upon loan origination.

38 (8) The number and type of finders used by licensees and the
39 relative performance of loans consummated by finders compared
40 to the performance of loans consummated without a finder.

1 (9) The number and percentage of borrowers who obtained one
2 or more program loans on which late fees were assessed, the total
3 amount of late fees assessed, and the average late fee assessed by
4 dollar amount and as a percentage of the principal amount loaned.

5 (10) The number and percentage of borrowers who defaulted
6 on a program loan.

7 (11) The number and types of violations of this article by finders,
8 which were documented by the deputy commissioner.

9 (12) The number and types of violations of this article by
10 licensees, which were documented by the deputy commissioner.

11 (13) The number of times that the deputy commissioner
12 disqualified a finder from performing services, barred a finder
13 from performing services at one or more specific locations of the
14 finder, terminated a written agreement between a finder and a
15 licensee, or imposed an administrative penalty.

16 (14) The number of complaints received by the deputy
17 commissioner about a licensee or a finder, and the nature of those
18 complaints.

19 (15) Recommendations for improving the program.

20 (16) Recommendations regarding whether the program should
21 be continued after January 1, 2018.

22 (e) The deputy commissioner shall conduct a random sample
23 survey of borrowers who have participated in the program to obtain
24 information regarding the borrowers' experience and licensees'
25 compliance with this article. The results of this survey shall be
26 included in the report required by this section.

27 22381. This article shall remain in effect only until January 1,
28 2018, and as of that date is repealed, unless a later enacted statute,
29 that is enacted before January 1, 2018, deletes or extends that date.

30 SEC. 2. Section 22750 of the Financial Code is amended to
31 read:

32 22750. (a) If any amount other than, or in excess of, the
33 charges permitted by this division is willfully charged, contracted
34 for, or received, the contract of loan is void, and no person has any
35 right to collect or receive any principal, charges, or recompense
36 in connection with the transaction.

37 (b) If any provision of this division is willfully violated in the
38 making or collection of a loan, whether by a licensee or by an
39 unlicensed person subject to this division, the contract of loan is

1 void, and no person has any right to collect or receive any principal,
2 charges, or recompense in connection with the transaction.
3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.